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IN THE

Supreme Court of the United States

OCTOBER TERM, 1989

EUGENE R. SUTTON and EDWARD DHAYER, *et al.*,
Petitioners,

—v.—

NATIONAL INTERGROUP, INC.; a/k/a NATIONAL STEEL CORP.; WEIRTON JOINT STUDY COMMITTEE, INC.; INDEPENDENT STEELWORKERS UNION; INDEPENDENT GUARD UNION; and WEIRTON STEEL CORP.,
Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

BRIEF IN OPPOSITION TO A PETITION FOR A WRIT OF CERTIORARI

Of Counsel

BRIAN E. O'CONNOR
SHARON L. SCHNEIER
WILLKIE FARR & GALLAGHER
One Citicorp Center
153 East 53rd Street
New York, New York 10022
(212) 935-8000
Attorneys for Weirton Joint Study Committee, Inc. and Weirton Steel Corporation

CARL H. HELLERSTEDT, JR.
VOLK, FRANKOVITCH, ANETAKIS, RECHT, ROBERTSON & HELLERSTEDT
Three Gateway Center
Pittsburgh, Pennsylvania 15222
(412) 392-2300
Attorneys for National Intergroup, Inc.

ROBERT J. D'ANNIBALLE
ALPERT & D'ANNIBALLE
Professional Center
3173 Main Street
Weirton, West Virginia 26062
(304) 748-5060
Attorneys for Independent Steelworkers Union

ANTHONY F. PHILLIPS
Counsel of Record for Respondents
WILLKIE FARR & GALLAGHER
One Citicorp Center
153 East 53rd Street
New York, New York 10022
(212) 935-8000

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QUESTION PRESENTED

1. Whether the court below erred in applying this Court's decision in *Torres v. Oakland Scavenger Co.*, ____ U.S. ____, 108 S. Ct. 2405 (1988), in concluding that it did not have jurisdiction to entertain the appeals of plaintiffs who were not identified in the notice of appeal?

LIST OF PARENT COMPANIES, NON-WHOLLY OWNED SUBSIDIARIES AND AFFILIATES OF RESPONDENTS, PURSUANT TO SUPREME COURT RULE 28.1

Weirton Steel Corporation, the Independent Steelworkers Union and the Independent Guard Union have no parent companies, no non-wholly owned subsidiaries or corporate affiliates. The Weirton Joint Study Committee, Inc. was dissolved in 1989.

National Intergroup, Inc. has no parent companies. The non-wholly owned subsidiaries of National Intergroup, Inc. are National-Southwire Aluminum Co. and Starcom International, Inc. The affiliates of National Intergroup, Inc. are Alex Joint Venture, Alumet Partnership, National Steel Corporation,[1] Permian Partners, L.P., and Riverfront Office Services, Inc.

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1 National Steel Corporation is not a named defendant in these actions, although it is identified in the caption herein as another name for National Intergroup, Inc. The parent companies of National Steel Corp. are NII Capital Corp. and NKK-USA Corp. The non-wholly owned subsidiary of National Steel Corporation is Mathies Coal Co. The affiliates of National Steel Corporation are Buffalo River Improvement Corp., Donner-Hanna Coke Joint Venture, Concast Holding, A.G., Iron Ore Company of Canada, Iron Ore Land Co., Mesaba-Cliffs Mining Co., M.A. Hanna Company, Pilot Knob Pellet Company, Presque Isle Corporation, Procoil Corporation and Taylor Devices, Inc.

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NATIONAL INTERGROUP, INC.; a/k/a NATIONAL STEEL CORP.; WEIRTON JOINT STUDY COMMITTEE, INC.; INDEPENDENT STEELWORKERS UNION; INDEPENDENT GUARD UNION; and WEIRTON STEEL CORP.,
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PRELIMINARY STATEMENT

Respondents National Intergroup, Inc.,[2] Weirton Steel Corporation ("Weirton Steel"), the Weirton Joint Study Committee, and the Independent Steelworkers Union respectfully request that this Court deny the petition for a writ of certiorari

2 The following abbreviations are used in this brief: "P.A." for Petitioners' Appendix, "Cert. Pet." for Petition for Certiorari, and "R.A." for Respondents' Appendix.

seeking review of the judgment and opinion of the United States Court of Appeals for the Fourth Circuit. P.A. 1a-2a.[3]

STATEMENT OF THE CASE

These actions stem from the sale by National Steel of its Weirton Steel Division (the "Division") to Weirton Steel, a newly-organized employee-owned company, on January 11, 1984. This Court has previously denied certiorari in actions commenced by, among others, these same petitioners, in which they unsuccessfully challenged the terms and conditions of the sale as violative of, *inter alia*, the Employee Retirement Income Security Act of 1974, 29 U.S.C. § 1001, *et seq.* (1974). *Sutton v. Weirton Steel Division of National Steel Corp.*, 724 F.2d 406 (4th Cir. 1983), *cert. denied*, 467 U.S. 1205 (1984) and *Dhayer v. Weirton Steel Division of National Steel Corp.*, 724 F.2d 406 (4th Cir. 1983), *cert. denied*, 467 U.S. 1205 (1984).

Thereafter, these plaintiffs filed two separate actions, challenging substantially the very same terms and conditions of the sale which they challenged unsuccessfully in the prior actions, under the Age Discrimination in Employment Act (the "ADEA"), 29 U.S.C. § 621, *et seq.* (1967).[4] *Eugene R. Sutton, et al. v. National Intergroup, Inc., et al.*, Civil No. 84-74W and *Edward Dhayer, et al. v. National Intergroup Inc., et al.*, Civil No. 84-638W. Cert. Pet. 2-3; R.A. 1-46.

Plaintiffs in *Sutton*, one hundred and seventy-one in number, allege that they are former hourly employees of the Division. R.A. 1-36. Plaintiffs in *Dhayer*, forty-three in number, allege

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3 Although National Intergroup, Inc. is identified in the caption of the *Sutton* Complaint as "formerly and also known as National Steel Corporation", R.A. 25, National Steel Corporation itself was not named as a defendant below.

4 The *Sutton* and *Dhayer* actions were filed in the United States District Court for the Western District of Pennsylvania. That Court granted defendants' motion to transfer the *Sutton* action to the Northern District of West Virginia. Thereafter, by stipulation, the *Dhayer* action was also transferred to the Northern District of West Virginia. *See* P.A. 32a.

that they are former salaried employees of the Division and that they are current or former salaried employees of Weirton Steel.[5] R.A. 37-46.

The United States District Court for the Northern District of West Virginia (Maxwell, J.) ruled, *inter alia*, that of the one hundred and seventy-one plaintiffs in *Sutton* only Eugene Sutton had complied with Section 7(d) of the ADEA by filing an age discrimination charge with the Equal Employment Opportunity Commission before commencing the *Sutton* action. As a result, the district court dismissed the *Sutton* action as against all plaintiffs except Sutton. P.A. 19a-31a.

Thereafter, in view of the substantial similarity of issues in *Sutton* and *Dhayer*, the *Dhayer* plaintiffs consented to a stipulation making the district court's ruling in *Sutton* applicable to *Dhayer*, resulting in the dismissal of the *Dhayer* Complaint as against all forty-three plaintiffs except Dhayer. P.A. 33a-35a.

On March 5, 1986, the *Sutton* plaintiffs filed a notice of appeal purporting to appeal from the district court's order in *Sutton*. On the same day, the *Dhayer* plaintiffs filed a notice of appeal purporting to appeal from the district court's order in *Sutton*, insofar as it was made applicable to the *Dhayer* plaintiffs pursuant to the parties' stipulation. Cert. Pet. 3.

On August 1, 1986, the United States Court of Appeals for the Fourth Circuit dismissed the *Sutton* and *Dhayer* appeals, holding that it was without jurisdiction to entertain the appeals, inasmuch as they were not final orders within the meaning of 28 U.S.C. § 1291. Cert. Pet. 3.

On October 29, 1986, the *Sutton* and *Dhayer* plaintiffs filed a motion in the district court for certification pursuant to Rule 54(b) of the Federal Rules of Civil Procedure. On January 4, 1989, the district court granted plaintiffs' motion and issued an order captioned "Order Directing Entry of Final Judgment As

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5 The Independent Steelworkers Union is a defendant only in the *Sutton* action. Although petitioners included the Independent Guard Union (the "IGU") as a defendant in the caption of the *Sutton* Complaint, the IGU was not named as a defendant in the body of the *Sutton* Complaint and it has never appeared in these actions.

to Certain Plaintiffs and Claims and Determination That No Just Cause Exists for Delay Pursuant to Rule 54(b) of the Federal Rules of Civil Procedure." Cert. Pet. 3; P.A. 9a-10a.

On January 31, 1989, petitioners Sutton and Dhayer filed a Joint Notice of Appeal from the district court's order, which named only Sutton and Dhayer as the parties to the appeals. P.A. 36a. Both the caption and the body of the Joint Notice of Appeal, however, included the term "*et al.*" P.A. 36a. The body of the Joint Notice of Appeal stated: "These cases involved two (2) groups of Plaintiffs totalling 149 Plaintiffs . . . ." P.A. 37a. Although the *Sutton* and *Dhayer* Complaints include a total of 214 plaintiffs, R.A. 1-46, the Joint Notice of Appeal did not identify which 149 of the 214 plaintiffs purported to appeal from the district court's order.

On March 16, 1989, respondents filed a Joint Motion to Dismiss Appeals, contending that the Joint Notice of Appeal failed to comply with the jurisdictional requirements of Rule 3(c), as construed by this Court in *Torres v. Oakland Scavenger Co.*, ____ U.S. ____, 108 S. Ct. 2405 (1988), in that it identified only Eugene Sutton and Edward Dhayer as appellants. On May 22, 1989, a three-judge panel of the United States Court of Appeals for the Fourth Circuit issued an order granting the Joint Motion to Dismiss Appeals. P.A. 3a-4a. On August 2, 1989, the United States Court of Appeals for the Fourth Circuit denied petitioners' petition for rehearing *in banc*. P.A. 1a-2a. This petition followed.

REASONS FOR DENYING THE WRIT

I.

THE RULING BY THE COURT BELOW THAT IT DID NOT HAVE JURISDICTION TO ENTERTAIN THE APPEALS OF PARTIES WHO WERE NOT NAMED IN THE NOTICE OF APPEAL PRESENTS NO ISSUE WARRANTING REVIEW BY THIS COURT.

Rule 3(c) of the Federal Rules of Appellate Procedure requires that a notice of appeal "shall specify the party or parties taking the appeal . . . ." In *Torres v. Oakland Scavenger*, ____ U.S. ____, 108 S. Ct. 2405 (1988), this Court held that the failure to name an appellant in a notice of appeal as required by Rule 3(c) results in lack of appellate jurisdiction over the unidentified appellant.

Torres was one of sixteen plaintiffs who, after receiving notice of a proposed settlement agreement, intervened in an employment discrimination action against Oakland Scavenger. The district court dismissed the complaint in intervention, and the plaintiffs filed a notice of appeal, which as a result of a secretary's typing error, inadvertently omitted Torres' name. The notice of appeal, however, included the phrase "*et al.*" after the names of the remaining fifteen appellants.

After reviewing the merits of the appeal, the Ninth Circuit reversed the dismissal of the complaint and remanded to the district court for further proceedings. On remand, the defendant moved for partial summary judgment on the ground that the district court's prior order of dismissal was final as to Torres, inasmuch as he had not appealed from that order. The district court granted defendant's motion, and the Ninth Circuit affirmed.

In affirming the order of the Ninth Circuit, this Court held that the failure to name a party in a notice of appeal as required by Rule 3(c) constitutes a failure of that party to appeal. *Id.* at 2407. This Court further held that the use of the term "*et al.*" in the notice of appeal was insufficient to identify Torres as a party to the appeal. *Id.* at 2409. In so holding, this Court

explicitly rejected Torres' argument that use of the term "*et al.*" satisfied Rule 3(c)'s specificity requirement, noting that:

> [t]he purpose of the specificity requirement of Rule 3(c) is to provide notice both to the opposition and to the court of the identity of the appellant or appellants. The use of the phrase "et al.," which literally means "and others," utterly fails to provide such notice to either intended recipient. Permitting such vague designation would leave the appellee and the court unable to determine with certitude whether a losing party not named in the notice of appeal should be bound by an adverse judgment or held liable for costs or sanctions.

Id.

Application of these principles to the *Sutton* and *Dhayer* appeals dictates the conclusion that the Fourth Circuit court did not have jurisdiction over the plaintiffs who were not identified in the Joint Notice of Appeal. Of the total of 214 plaintiffs included in the *Sutton* Complaint (171) and the *Dhayer* Complaint (43), only Sutton and Dhayer were named as appellants in the Joint Notice of Appeal.[6] Although both the caption and the body of the Joint Notice of Appeal used the term "*et al.*," the holding of this Court in *Torres* makes it clear that use of the phrase "*et al.*" is jurisdictionally insufficient to constitute the filing of a notice of appeal by unidentified appellants.

The wisdom of this rule is nowhere better demonstrated than in the present case. The body of the Joint Notice of Appeal states: "Eugene R. Sutton, *et al.*, and Edward Dhayer, *et al.*, Plaintiffs above named, hereby appeal. . . ." P.A. at 36a.

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6 Petitioners advise this Court that "[a]lthough the current action is only being brought by 119 of the Sutton and Dhayer plaintiffs, at the time of the filing of the Notice of Appeal, all of the 149 individuals adversely affected by the District Court's January 31, 1986 ruling appealed." Cert. Pet. 4 n.1. Nowhere do petitioners explain to this Court why only 149 of the 214 plaintiffs were "adversely affected" by the district court's order or how the Joint Notice of Appeal gave either the court or respondents notice of the identity of the 149 plaintiffs who purported to have appealed from the district court's order.

The only plaintiffs "above named" in the caption of the Joint Notice of Appeal were Sutton and Dhayer. Although the text of the Joint Notice of Appeal also stated that *Sutton* and *Dhayer* "involved two (2) groups of Plaintiffs totalling 149 Plaintiffs . . .", P.A. at 37a, the Joint Notice did not state that 149 plaintiffs were appealing or, if they were intending to do so, did it name or otherwise identify in any manner the 149 plaintiffs who were purporting to appeal from the district court's order, notwithstanding the fact that the *Sutton* and *Dhayer* Complaints include a total of 214 plaintiffs. Thus, the Joint Notice of Appeal failed to identify any plaintiff other than Sutton and Dhayer who was purporting to appeal from the district court's order. Accordingly, the Fourth Circuit correctly applied *Torres* to the instant case and dismissed the appeals of each plaintiff other than Sutton and Dhayer.

Nowhere in their petition do petitioners offer any reason why this Court's holding in *Torres* is not controlling in this case. Instead, petitioners attempt to create a conflict among the circuits by citation to decisions rendered by the First, Fifth and Sixth Circuits, which petitioners contend have adhered to a "less stringent reading" of *Torres* than the Fourth, Second and Seventh Circuits. Cert. Pet. at 5 n.2. No such conflict exists, however.

In support of their contention that a conflict exists among the circuits, petitioners rely heavily on *Mariani-Giron v. Acevedo-Ruiz*, 877 F.2d 1114 (1st Cir. 1989), suggesting that the First Circuit reached a result contrary to that of the Fourth Circuit in this case. That is simply not the case. In *Mariani-Giron*, the defendants were Heriberto Acevedo-Ruiz, his wife and their conjugal partnership. *Id.* at 1115-16 & 1115 n.1. Following the district court's denial of defendants' motion for summary judgment, the defendants purported to file a notice of appeal. The caption of the notice of appeal identified defendants as: "Heriberto Acevedo-Ruiz, *et al.*". *Id.* at 1115. The body of the notice stated in pertinent part:

> "Notice is given that defendants hereby appeal to the United States Court of Appeals for the First Circuit from

> the order entered in this action on April 19, 1988, denying a motion for summary judgment filed by defendants on February 22, 1988."

Id.

On the plaintiffs' motion to dismiss the defendants' appeal, the First Circuit held that it did not have jurisdiction over the appeals of the wife and the conjugal partnership, inasmuch as they were not specified in the notice of appeal. It rejected the defendants' contention that the plural use of "defendants" in the body of the notice of appeal coupled with "*et al.*" in the caption was sufficient to specify the wife and conjugal partnership as parties to the appeal. In so holding, the First Circuit distinguished the wife and conjugal partnership, who were unnamed in both the caption and body of the notice of appeal, from Acevedo-Ruiz who, while unnamed in the body of the notice, was named in the caption:

> While we apparently lack jurisdiction over his wife and their conjugal partnership, as they are nowhere specified in the notice of appeal, we do have jurisdiction over Acevedo Ruiz. The presence of his name in the caption, coupled with the statement in the body of the notice of appeal that "defendants hereby appeal," which incorporated by reference those defendants named in the caption, satisfied as to him the specificity requirement of Rule 3(c); we cannot say that Acevedo Ruiz "was never named or otherwise designated, however inartfully, in the notice of appeal" even though the "ET AL." and the plural use of "defendants" left us in doubt as to the remaining defendants seeking to appeal.

Id. at 1116 (footnote omitted) (citing *Torres*, 108 S. Ct. at 2409).

Mariani-Giron is entirely consistent with *Torres* and the Fourth Circuit's ruling in the present case. Like the court in *Mariani-Giron*, the Fourth Circuit retained the appeals of Sutton and Dhayer, both of whom were named in the caption of the Joint Notice of Appeal, and dismissed the appeals of the

additional 147 (out of 214) unspecified plaintiffs who purported to have appealed from the district court's order.

Moreover, since the filing of this petition, the First Circuit, in an *in banc* opinion, has explicitly adopted the holding of the *Mariani-Giron* panel. In *Rosario-Torres v. Hernandez-Colon*, Nos. 87-2096 & 87-2097, 1989 U.S. App. LEXIS 16845 (1st Cir. Nov. 8, 1989) (*in banc*), the First Circuit dismissed the appeals of eight plaintiffs who were not named in a notice of appeal, holding:

> Cases previously decided leave no doubt that in this circuit inserting the words "*et al.*" in the case caption cannot fulfill the mandate of Rule 3(c). The use of the plural ("plaintiffs") in the notice of appeal is equally unavailing; in analogous circumstances, we have refused to entertain an appeal by unnamed plaintiffs based on a notice containing a statement that "all plaintiffs appeal."

Id., slip op. at 3 (citations omitted); *Gonzalez-Vega v. Hernandez-Colon*, 866 F.2d 519 (1st Cir. 1989) (*per curiam*) (dismissing appeals of 143 of 144 plaintiffs who purported to appeal by filing notice of appeal naming one plaintiff and using the term "*et al.*"); *Santos-Martinez v. Soto-Santiago*, 863 F.2d 174 (1st Cir. 1988) (dismissing appeals of 6 unnamed plaintiffs who purported to appeal by filing notice of appeal naming one plaintiff and using the term "*et al.*").

Petitioners next contend that the Fifth Circuit has applied this Court's holding in *Torres* less stringently than the Fourth Circuit. In support of their contention, petitioners rely on *Pope v. Mississippi Real Estate Commission*, 872 F.2d 127 (5th Cir. 1989). Petitioners' reliance on *Pope* to demonstrate a conflict among the circuits is misplaced.

In *Pope*, both plaintiffs, husband and wife, appealed from an order of the district court, granting summary judgment to defendants, by filing a notice of appeal naming one of them and using the term "*et al.*" The body of the notice of appeal stated: " '[p]laintiffs do hereby appeal.' " *Id.* at 129. In retaining jurisdiction of plaintiffs' appeal, the Fifth Circuit held that,

inasmuch as there were only two plaintiffs in the action, use of the term "*et al.*" together with the statement in the body of the notice of appeal that "plaintiffs" appeal could only refer to the other unnamed plaintiff. *Id.* Under those circumstances, the Fifth Circuit reasoned that the identity of each of the parties appealing from the district court's order could be determined from the face of the notice of appeal, notwithstanding the fact that one of the appellants was not specifically named. Thus, *Pope* is readily distinguishable from the instant case and is neither in conflict with the Fourth Circuit's decision in this case nor provides any support for a grant of certiorari.

Petitioners also contend that the Sixth Circuit has applied *Torres* more liberally than the Fourth Circuit. In support of their contention, petitioners direct this Court's attention to *Ford v. Nicks*, 866 F.2d 865 (6th Cir. 1989), in which all 18 defendants appealed from an order of the district court, holding them liable for sex discrimination, by filing a notice of appeal naming one defendant in the caption and using the term "*et al.*". The body of the notice of appeal stated that "the defendants" were appealing from the district court's order. On these facts, the Sixth Circuit concluded: "We are satisfied that 'the function of notice' was met as to each of the defendants in this case by the filing of a notice of appeal on behalf of 'the' defendants, without limitation." *Id.* at 870. *Nicks* is readily distinguishable from the instant case.

Unlike *Nicks*, in which the Sixth Circuit concluded that it was clear from the body of the notice of appeal that each of the defendants was appealing from the district court's order, the body of the Joint Notice of Appeal in this case made it clear that all of the 214 plaintiffs named in the Complaints were *not* appealing from the district court's order. First, it stated that the "above named" plaintiffs were appealing. The only plaintiffs named in the caption were Sutton and Dhayer. Second, it limited the purported appellants to a group of 149 "involved" in these cases out of 214 plaintiffs named in the Complaints. After indicating this limitation, the Joint Notice of Appeal failed to identify in any manner which 149 of the original 214 plaintiffs were purporting to appeal. Thus, unlike the notice of appeal in

Nicks, the Joint Notice of Appeal in this case failed to provide notice to the court and defendants of the identity of any of the plaintiffs, other than Sutton and Dhayer, who were purporting to appeal from the district court's order. For that reason, the Fourth Circuit's decision in this case is not in conflict with *Nicks*.[7]

Moreover, petitioners' contention that the Sixth Circuit has interpreted *Torres* to "require less specificity than the actual naming of the appellants" is belied by a recent decision from that court--to which petitioners do not refer in their petition--which is indistinguishable in all material respects from the instant case. In *Heussner v. National Gypsum Co.*, No. 88-1987, 1989 U.S. App. LEXIS 15377 (6th Cir. Oct. 11, 1989), over two hundred former employees of National Gypsum Company ("National") brought an action to recover certain benefits following the sale of National's Michigan cement mill to Lafarge Corporation. Following the district court's dismissal of their complaint, plaintiffs appealed to the Sixth Circuit. The body of the notice of appeal stated that " 'notice is hereby given that Farrell J. Heussner, *et al.*, Plaintiffs, in the captioned action, hereby appeal' ". *Id.*, slip op. at 3.

In dismissing the appeal of each plaintiff other than Heussner, the Sixth Circuit held:

> The Supreme Court clearly held in *Torres v. Oakland Scavenger Company*, 108 S. Ct. 2405 (1988) that the federal appellate courts lack jurisdiction over any party who is not specified in the notice of appeal in accordance with Rule 3(c) of the Federal Rules of Appellate Procedure. Moreover, the Court in *Torres* specifically stated that the use of "et al." in the petitioner's notice of appeal was not

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7 This Court specifically noted that, even prior to *Torres*, the Fourth and Sixth Circuits held that the failure to specify the parties to an appeal results in a lack of appellate jurisdiction over the unnamed parties. *Torres v. Oakland Scavenger Co.*, _____ U.S. _____, 108 S. Ct. 2405, 2407 n.1 (1988) (citing *Covington v. Allsbrook*, 636 F.2d 63, 64 (4th Cir. 1980) and *Life Time Doors, Inc. v. Walled Lake Door Co.*, 505 F.2d 1165, 1168 (6th Cir. 1974)).

sufficient to comply with the requirements of Rule 3(c) where the petitioner was not named or otherwise designated. 108 S. Ct. at 2409.

* * *

> Given the Supreme Court's holding in *Torres* and this circuit's decision in *Van Hoose* [*v. Eidson*, 450 F.2d 746 (6th Cir. 1971)], we feel compelled to grant defendants' motion to dismiss the appeals of all plaintiffs except for the appeal of Heussner, the named plaintiff. The plaintiffs' notice of appeal named only Heussner, and the use of the phrase "et al." is, according to *Torres*, insufficient to comply with Rule 3(c) where the other plaintiffs were not named or specifically designated.

Id., slip. op. at 3. *See also McCuaig v. Brown*, 859 F.2d 152 (6th Cir. 1988) (text available on LEXIS 1988 U.S. App. LEXIS 13081) (appellate court did not have jurisdiction over 12 of 14 plaintiffs who were not named in the notice of appeal, notwithstanding that the notice of appeal stated that the appeal was filed " 'individually, and as elected spokesman for plaintiff group' "), *cert. denied*, ____ U.S. ____, 109 S. Ct. 1169 (1989).[8] Thus, the Sixth Circuit's recent decision in *Heussner* is fully consistent with the Fourth Circuit's decision in the instant case.

Finally, other courts of appeals which have addressed this issue have similarly strictly construed Rule 3(c). *See, e.g., Shatah v. Shearson/American Express, Inc.*, 873 F.2d 550 (2d Cir. 1989) (Rule 3(c) is a jurisdictional requirement which must be

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8 Even if the Sixth Circuit's decisions in *Nicks* and *Heussner* could be construed as inconsistent, an intra-circuit conflict between different panels of the same court of appeals would not warrant review by this Court. R. Stern, E. Gressman & S. Shapiro, *Supreme Court Practice* § 4.6, at 204-205 (6th ed. 1986) (" 'decisions between different panels of the same Court of Appeals will not be considered to present a reviewable conflict, since such differences of view are deemed an intramural matter to be resolved by the Court of Appeals itself' ") (quoting Justice Harlan, *Manning the Dikes*, 13 Record of N.Y.C. Bar Ass'n 541, 552 (1958)). *See also Davis v. United States*, 417 U.S. 333, 340 (1974).

read restrictively); *Rogers v. National Union Fire Ins. Co.*, 864 F.2d 557, 559 (7th Cir. 1988) ("Rule 3(c)'s naming requirement is jurisdictional and inflexible") (citation omitted); *Meehan v. County of Los Angeles*, 856 F.2d 102, 105 (9th Cir. 1988) (the phrase "*et al.*" does nothing to specify who is appealing); *In re Woosley*, 855 F.2d 687, 688 (10th Cir. 1988) (failure to specify the party taking the appeal presents a jurisdictional bar to the appeal); *Appeal of District of Columbia Nurses' Ass'n*, 854 F.2d 1448 (D.C. Cir. 1988) (court does not have jurisdiction over unnamed appellant through use of the term "*et al.*"), *cert. denied*, ____ U.S. ____, 109 S. Ct. 3189 (1989).

CONCLUSION

Petitioners have failed to demonstrate that the Fourth Circuit misapplied *Torres* in dismissing the appeals of each plaintiff other than Sutton and Dhayer. Nor have petitioners demonstrated that a conflict exists among the courts of appeals in their construction and application of *Torres*. In short, the Joint Notice of Appeal filed by petitioners failed to satisfy the jurisdictional requirements of Rule 3(c), and petitioners have offered no sound reason why certiorari should be granted in this case.

Accordingly, respondents respectfully request that this Court deny the instant petition for a writ of certiorari to the United States Court of Appeals for the Fourth Circuit.

DATED: November 30, 1989
New York, New York

Respectfully submitted,

ANTHONY F. PHILLIPS
Counsel of Record for Respondents
WILLKIE FARR & GALLAGHER
One Citicorp Center
153 East 53rd Street
New York, New York 10022
(212) 935-8000

Of Counsel

BRIAN E. O'CONNOR
SHARON L. SCHNEIER
WILLKIE FARR & GALLAGHER
One Citicorp Center
153 East 53rd Street
New York, New York 10022
(212) 935-8000

Attorneys for Weirton Joint Study Committee, Inc. and Weirton Steel Corporation

CARL H. HELLERSTEDT, JR.
VOLK, FRANKOVITCH, ANETAKIS, RECHT, ROBERTSON & HELLERSTEDT
Three Gateway Center
Pittsburgh, Pennsylvania 15222
(412) 392-2300
Attorneys for National Intergroup, Inc.

ROBERT J. D'ANNIBALLE
ALPERT & D'ANNIBALLE
Professional Center
3173 Main Street
Weirton, West Virginia 26062
(304) 748-5060
Attorneys for Independent Steelworkers Union

RESPONDENTS' APPENDIX

EXCERPTS FROM THE *SUTTON* COMPLAINT

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

EUGENE R. SUTTON Individually and on behalf of all others similarly situated R.D. #1, Box 102 New Cumberland West Virginia 26047	:	CIVIL ACTION NO. 84-242C
PAUL D. ALEXANDER Individually and on behalf of all others similarly situated 168 Patterson Road Weirton West Virginia 26062	:	Individual Complaint and Class Action Complaint For Damages
ANTHONY J. ANGELO Individually and on behalf of all others similarly situated 409 Fairview Street Weirton West Virginia 26062	:	
CHARLES W. BAIER Individually and on behalf of all others similarly situated 816 Loretta Avenue Toronto Ohio 43964	:	

ROBERT F. BALDWIN :
Individually and on behalf of :
all others similarly situated :
115 Montgomery Lane :
Mingo Junction :
Ohio 43938 :
:
JOHN P. BARLAS :
Individually and on behalf of :
all others similarly situated :
527 Fernwood Drive :
Toronto :
Ohio 43964 :
:
THOMAS V. BARNHOUSE :
Individually and on behalf of :
all others similarly situated :
6127 Desert Road, SW :
Carrollton :
Ohio 44615 :
:
WILLIAM BELL :
Individually and on behalf of :
all others similarly situated :
378 Scenic Drive :
Steubenville :
Ohio 43952 :
:
WALTER BIRRELL :
Individually and on behalf of :
all others similarly situated :
R.D. #6, Box 537 :
Steubenville :
Ohio 43952 :
:

PETER BRIER :
Individually and on behalf of :
all others similarly situated :
839 Broadway Boulevard :
Steubenville :
Ohio 43952 :
:
CAMDEN BUMGARNER :
Individually and on behalf of :
all others similarly situated :
Rt. #1, Box 172 :
Palestine :
West Virginia 26160 :
:
WILLIAM D. BURCH :
Individually and on behalf of :
all others similarly situated :
R.D. #3, Box 341 :
New Cumberland :
West Virginia 26047 :
:
GLENN L. BURDICK :
Individually and on behalf of :
all others similarly situated :
Box 306A, Rt. #1 :
Steubenville :
Ohio 43952 :
:
JAMES P. BURKETT :
Individually and on behalf of :
all others similarly situated :
1086 Jewett Road :
Steubenville :
Ohio 43952 :
:

ADRIAN K. BURNWORTH :
Individually and on behalf of :
all others similarly situated :
218 Jefferson Boulevard :
Mingo Junction :
Ohio 43938 :
:
LEO R. BURTON :
Individually and on behalf of :
all others similarly situated :
Box 333 :
New Cumberland :
West Virginia 26047 :
:
MYERS D. CAMPBELL :
Individually and on behalf of :
all others similarly situated :
615 St. Clair Street :
Mingo Junction :
Ohio 43938 :
:
HOMER R. CAMERON :
Individually and on behalf of :
all others similarly situated :
66 Brenda Circle :
Wintersville :
Ohio 43952 :
:
JOSEPH CANDAL, JR. :
Individually and on behalf of :
all others similarly situated :
521 Fernwood Drive :
Toronto :
Ohio 43964 :
:

NOEL A. CANTIN :
Individually and on behalf of :
all others similarly situated :
3605 Hanlin Way :
Weirton :
West Virginia 26062 :
:
RAYMOND CAPARROS :
Individually and on behalf of :
all others similarly situated :
238 Crystal Lane :
Weirton :
West Virginia 26062 :
:
JAMES W. CARDUCCI :
Individually and on behalf of :
all others similarly situated :
Box 145A, R.D. #2 :
Bloomingdale :
Ohio 43910 :
:
MILTON CERAN :
Individually and on behalf of :
all others similarly situated :
P.O. Box 2071 :
131 Grimm Way :
Weirton :
West Virginia 26062 :
:
HERBERT A. CHAPMAN :
Individually and on behalf of :
all others similarly situated :
143 Morningside Court :
Weirton :
West Virginia 26062 :
:

WILLIAM H. CHAPPELL :
Individually and on behalf of :
all others similarly situated :
339 S. 22nd Street :
Weirton :
West Virginia 26062 :
:
ANDREW CHICOVIC, JR. :
Individually and on behalf of :
all others similarly situated :
R.D. #4 :
Burgettstown :
Pennsylvania 15021 :
:
ALPHONSO J. CILONE :
Individually and on behalf of :
all others similarly situated :
190 Main Street :
Follansbee :
West Virginia 26037 :
:
GLENN L. CHIVERS :
Individually and on behalf of :
all others similarly situated :
99-24th Street :
Wellsburg :
West Virginia 26070 :
:
JAMES S. CLARK :
Individually and on behalf of :
all others similarly situated :
R.D. #1 :
Toronto :
Ohio 43964 :
:

HENRY H. COOPER :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 129 :
New Cumberland :
West Virginia 26047 :
:
VONLIE COOPER :
Individually and on behalf of :
all others similarly situated :
Box 111G, Sun Valley :
R.D. #1 :
Weirton :
West Virginia 26062 :
:
GLEN V. COTTRILL :
Individually and on behalf of :
all others similarly situated :
137 Clara Street :
Weirton :
West Virginia 26062 :
:
FRANK V. CYBULSKI :
Individually and on behalf of :
all others similarly situated :
R.D. #2, Ward Drive :
Wintersville :
Ohio 43952 :
:
GEORGE R. DANFORD :
Individually and on behalf of :
all others similarly situated :
101 Sinclair Avenue :
Weirton :
West Virginia 26062 :
:

DONALD DAVIDSON :
Individually and on behalf of :
all others similarly situated :
R.D. #1 :
Toronto :
Ohio 43964 :
:
RONALD E. DAVIS :
Individually and on behalf of :
all others similarly situated :
22 Woodcrest Manor :
Follansbee :
West Virginia 26037 :
:
CARLES L. DAWSON :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 645 :
Chester :
West Virginia 26036 :
:
CARL G. DULANEY :
Individually and on behalf of :
all others similarly situated :
514 Rockdale Road :
Follansbee :
West Virginia 26037 :
:
GERALD D. DENNIS :
Individually and on behalf of :
all others similarly situated :
1327 N. River Avenue :
Toronto :
Ohio 43964 :
:

RICHARD W. DENEEN :
Individually and on behalf of :
all others similarly situated :
440 Charles Street :
Wellsburg :
West Virginia 26070 :
:
NEIL E. DENNIS :
Individually and on behalf of :
all others similarly situated :
126 Colliers Way :
Weirton :
West Virginia 26062 :
:
FRANK E. DIPIETRO, SR. :
Individually and on behalf of :
all others similarly situated :
168 Linmar Avenue :
Wintersville :
Ohio 43952 :
:
NICHOLAS S. DEDERICK :
Individually and on behalf of :
all others similarly situated :
1349 Barone Drive Ext. :
Weirton :
West Virginia 26062 :
:
WARREN D. DUNLAP :
Individually and on behalf of :
all others similarly situated :
R.F.D. #3, Box 203 :
New Cumberland :
West Virginia 26047 :
:

WILLIAM H. EASTHAM :
Individually and on behalf of :
all others similarly situated :
Route #1 :
New Cumberland :
West Virginia 26047 :
:

MERLE H. ETHERIDGE :
Individually and on behalf of :
all others similarly situated :
170 Hillcrest Drive :
Wellsburg :
West Virginia 26070 :
:

RUSSELL EVANS :
Individually and on behalf of :
all others similarly situated :
648 Cove Road :
Weirton :
West Virginia 26062 :
:

CECIL E. FAULK :
Individually and on behalf of :
all others similarly situated :
121 Cross Street :
Wintersville :
Ohio 43952 :
:

WALTER FISHER :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 147 :
Toronto :
Ohio 43964 :
:

ERNEST W. FITHYAN :
Individually and on behalf of :
all others similarly situated :
112 Yale Place :
Steubenville :
Ohio 43952 :
:
WARREN L. FLANAGAN :
Individually and on behalf of :
all others similarly situated :
Sunset Lane :
Follansbee :
West Virginia 26037 :
:
GEORGE C. FOLDI, SR. :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Goulds Road :
Mingo Junction :
Ohio 43938 :
:
CHARLES W. FRANTZ :
Individually and on behalf of :
all others similarly situated :
Belvedere Drive :
Bloomingdale :
Ohio 43916 :
:
DAVID H. FRANTZ :
Individually and on behalf of :
all others similarly situated :
R.D. #3, Williams Boulevard :
Wintersville :
Ohio 43952 :
:

EDGAR K. GAUMER :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 519 :
Weirton :
West Virginia 26062 :
:

PAUL A. GERARD :
Individually and on behalf of :
all others similarly situated :
317 Wilshire Boulevard :
Steubenville :
Ohio 43952 :
:

ROBERT A. GIANNAMORE :
Individually and on behalf of :
all others similarly situated :
417 Linduff Avenue :
Steubenville :
Ohio 43952 :
:

SYDNEY E. GIVENS :
Individually and on behalf of :
all others similarly situated :
R.D. #2, Box 325 :
New Cumberland :
West Virginia 26047 :
:

RALPH GORRELL, SR. :
Individually and on behalf of :
all others similarly situated :
201 Pine Street :
Weirton :
West Virginia 26062 :
:

ROBERT GREGSON :
Individually and on behalf of :
all others similarly situated :
113 Columbus Way :
Weirton :
West Virginia 26062 :
:
ROBERT W. HAMILTON :
Individually and on behalf of :
all others similarly situated :
R.D. #1 :
Hookstown :
Pennsylvania 15050 :
:
JOHN W. HANEY, JR. :
Individually and on behalf of :
all others similarly situated :
217 Main Street :
Follansbee :
West Virginia 26037 :
:
ROBERT F. HANEY :
Individually and on behalf of :
all others similarly situated :
1601 Moreland Drive :
Steubenville :
Ohio 43952 :
:
CHARLES M. HAYES :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Leo Ridge Road :
Steubenville :
Ohio 43952 :
:

JAMES E. HELTON :
Individually and on behalf of :
all others similarly situated :
1325 East Street :
Follansbee :
West Virginia 26037 :
:
RICHARD A. HIXENBAUGH :
Individually and on behalf of :
all others similarly situated :
98 View Street :
Weirton :
West Virginia 26062 :
:
JAMES M. HOFFMAN :
Individually and on behalf of :
all others similarly situated :
Box 106 :
New Cumberland :
West Virginia 26047 :
:
JAMES A. HOGE :
Individually and on behalf of :
all others similarly situated :
1331 East Street :
Follansbee :
West Virginia 26037 :
:
WILLIAM J. HOUSER :
Individually and on behalf of :
all others similarly situated :
162 Garden Drive :
Wintersville :
Ohio 43952 :
:

HAROLD G. HUGGINS :
Individually and on behalf of :
all others similarly situated :
R.D. #2, Fernwood Road :
Wintersville :
Ohio 43952 :
:
JOHN N. HUGHES :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 48M :
Burgettstown :
Pennsylvania 15021 :
:
JOSEPH G. IZZI :
Individually and on behalf of :
all others similarly situated :
2908 Whitehaven Boulevard :
Steubenville :
Ohio 43952 :
:
STANLEY JANOSKI :
Individually and on behalf of :
all others similarly situated :
R.D. #1 :
Mingo Junction :
Ohio 43938 :
:
HARRY D. JONES :
Individually and on behalf of :
all others similarly situated :
R.D. #2, Box 228 :
Boyd Road :
Colliers :
West Virginia 26035 :
:

WENDALL JONES :
Individually and on behalf of :
all others similarly situated :
192 Mahans Lane :
Follansbee :
West Virginia 26037 :
:
WILLIAM O. JONES :
Individually and on behalf of :
all others similarly situated :
Box 4, R.D. #3 :
New Cumberland :
West Virginia 26037 :
:
HOWARD D. KEENAN :
Individually and on behalf of :
all others similarly situated :
Rt. #1, Box 297 :
Middlebourne :
West Virginia 26149 :
:
ROY E. KING :
Individually and on behalf of :
all others similarly situated :
114 Greentree Lane :
Weirton :
West Virginia 26062 :
:
EDWARD J. KLAKOS :
Individually and on behalf of :
all others similarly situated :
Box 233, Wylier Ridge Road :
New Cumberland :
West Virginia 26047 :
:

MELVIN KOSTUR :
Individually and on behalf of :
all others similarly situated :
3854 State Street, Ext. :
Weirton :
West Virginia 26062 :
:
STANLEY KRUPINSKI :
Individually and on behalf of :
all others similarly situated :
137 St. John Road :
Colliers :
West Virginia 26035 :
:
JOHN J. KUCZYKOWSKI :
Individually and on behalf of :
all others similarly situated :
136 Milky Way :
Wintersville :
Ohio 43952 :
:
DANIEL KUKICH :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 506T :
Weirton :
West Virginia 26062 :
:
JAMES E. LASLO :
Individually and on behalf of :
all others similarly situated :
1625 Roosevelt Avenue :
Steubenville :
Ohio 43952 :
:

CHAARLES [sic] W. LATIMER :
Individually and on behalf of :
all others similarly situated :
231 Walker Road :
Follansbee :
West Virginia 26037 :
:
RICHARD D. LAW :
Individually and on behalf of :
all others similarly situated :
7032 Senlac Road :
Amsterdam :
Ohio 43903 :
:
ROBERT G. LEMASTERS :
Individually and on behalf of :
all others similarly situated :
276 Skyview Drive :
Weirton :
West Virginia 26062 :
:
JAMES L. LESKO :
Individually and on behalf of :
all others similarly situated :
148 Beverly Lane :
Wintersville :
Ohio 43952 :
:
LEE W. LIBENGOOD :
Individually and on behalf of :
all others similarly situated :
130 Denese Drive :
Weirton :
West Virginia 26062 :
:

JOSEPH W. KIPAN, JR. :
Individually and on behalf of :
all others similarly situated :
R.D. #2, Bantam Ridge Road :
Wintersville :
Ohio 43952 :
:
GILBERT LITTLETON :
Individually and on behalf of :
all others similarly situated :
3144 Hill Street :
Weirton :
West Virginia 26062 :
:
JAMES M. LIVINGSTON, JR. :
Individually and on behalf of :
all others similarly situated :
428 Dresden Avenue :
Steubenville :
Ohio 43952 :
:
RAYMOND LUDEWIG :
Individually and on behalf of :
all others similarly situated :
530 Fernwood Drive :
Toronto :
Ohio 43964 :
:
JOHN G. MCCLASKEY :
Individually and on behalf of :
all others similarly situated :
4025 Bright Way :
Weirton :
West Virginia 26062 :
:

DANA C. MCCLELLAND :
Individually and on behalf of :
all others similarly situated :
Box 142, Adam Street :
New Cumberland :
West Virginia 26047 :
:
BENNY MCCLOSKY :
Individually and on behalf of :
all others similarly situated :
5156 Senate Road :
Amsterdam :
Ohio 43903 :
:
CHARLES R. MCCONNELL :
Individually and on behalf of :
all others similarly situated :
158 Genteel Ridge :
Wellsburg :
West Virginia 26070 :
:
JOHN J. MCELWAIN :
Individually and on behalf of :
all others similarly situated :
119 Forest Road :
Weirton :
West Virginia 26062 :
:
HAROLD C. MCFADDEN :
Individually and on behalf of :
all others similarly situated :
310 Bennett Drive :
Weirton :
West Virginia 26062 :
:

WILLIAM J. MCHUGH :
Individually and on behalf of :
all others similarly situated :
202 Franklin Avenue :
Weirton :
West Virginia 26062 :
:
GEORGE F. MCLAUGHLIN :
Individually and on behalf of :
all others similarly situated :
104 Madison Street :
New Cumberland :
West Virginia 26047 :
:
HAROLD E. MASTERS :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 496A :
New Cumberland :
West Virginia 26047 :
:
FRANK B. MATEUSIAK :
Individually and on behalf of :
all others similarly situated :
153 St. John Road :
Weirton :
West Virginia 26062 :
:
BYRON L. MESSER :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 247 :
Weirton :
West Virginia 26062 :
:

CHARLES E. METZ :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 374 :
Weirton :
West Virginia 26062 :
:
JOHN W. MILEWSKY :
Individually and on behalf of :
all others similarly situated :
105 Paulman Circle :
Mingo Junction :
Ohio 43938 :
:
JOHN H. MISCH :
Individually and on behalf of :
all others similarly situated :
1106 Trauberts Place :
Follansbee :
West Virginis [sic] 26037 :
:
STEVEN A. MODRANSKI, JR. :
Individually and on behalf of :
all others similarly situated :
Box 456 :
Amsterdam :
Ohio 43903 :
:
FRED R. MOORE :
Individually and on behalf of :
all others similarly situated :
R.D. #1 :
Steubenville :
Ohio 43952 :
:

ROY MOOREHEAD :
Individually and on behalf of :
all others similarly situated :
1125 Wilson Avenue :
Steubenville :
Ohio 43952 :
:

HERBERT D. MORRIS :
Individually and on behalf of :
all others similarly situated :
Rt. 2, Box 46 :
New Cumberland :
West Virginia 26047 :
:

GEORGE T. MURRAY :
Individually and on behalf of :
all others similarly situated :
P. O. Box 117 :
New Cumberland :
West Virginia 26047 :
:

LOUIS NAGY :
Individually and on behalf of :
all others similarly situated :
53 Baird Street :
Slovan :
Pennsylvania 15078 :
:

VINCENT C. OLIVER :
Individually and on behalf of :
all others similarly situated :
135 S. 11th Street :
Weirton :
West Virginia 26062 :
:

SANDINO Q. ORSINI :
Individually and on behalf of :
all others similarly situated :
R 725 Virginia Avenue :
Follansbee :
West Virginia 26037 :
:
ROY R. OWENS :
Individually and on behalf of :
all others similarly situated :
Box 26 :
Bethany :
West Virginia 26032 :
:
JOSEPH A. PASQUARELLA :
Individually and on behalf of :
all others similarly situated :
1537 Euclid Avenue :
Steubenville :
Ohio 43952 :
:
EARL W. PATTERSON :
Individually and on behalf of :
all others similarly situated :
713 Wilkins Avenue :
Steubenville :
Ohio 43952 :
:
STANLEY A. PAULIN :
Individually and on behalf of :
all others similarly situated :
R.D. #2, Sunny Acres :
Wintersville :
Ohio 43952 :
:

ANTHONY J. PELLEGRINO :
Individually and on behalf of :
all others similarly situated :
1305 Walker Road :
Follansbee :
West Virginia 26037 :
:
ALBERT A. PETRELLA :
Individually and on behalf of :
all others similarly situated :
324 Westwood Drive :
Steubenville :
Ohio 43952 :
:
DWAIN E. POLAND :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 508 :
Weirton :
West Virgina 26062 :
:
TED F. POLING :
Individually and on behalf of :
all others similarly situated :
R.D. #3, Box 382 :
New Cumberland :
West Virginia 26047 :
:
ELWOOD L. POPISH :
Individually and on behalf of :
all others similarly situated :
118 Fairway Street :
Weirton :
West Virginia 26062 :
:

PAUL E. PUGH :
Individually and on behalf of :
all others similarly situated :
R.R. #3, Box 273 :
New Cumberland :
West Virginia 26047 :
:
HILBERT W. PYLES :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 112D :
Burgettstown :
Pennsylvania 15021 :
:
FLOYD C. RABE :
Individually and on behalf of :
all others similarly situated :
106 Grandview Drive :
Wintersville :
Ohio 43952 :
:
JOE H. RADIVOJ, JR. :
Individually and on behalf of :
all others similarly situated :
116 Mellon Street :
Weirton :
West Virginia 26062 :
:
RICHARD K. RAINERI :
Individually and on behalf of :
all others similarly situated :
R.D. #1, St.Johns Road :
Colliers :
West Virginia 26035 :
:

JOHN P. RALSTON :
Individually and on behalf of :
all others similarly situated :
R.D. #1 :
Burgettstown :
Pennsylvania 15021 :
:
LAWRENCE A. RAWSON :
Individually and on behalf of :
all others similarly situated :
Box 371 :
New Cumberland :
West Virginia 26047 :
:
FRANK (FRANCIS) REA :
Individually and on behalf of :
all others similarly situated :
608 Gilbert Avenue :
Follansbee :
West Virginia 26037 :
:
RECTOR ODELL :
Individually and on behalf of :
all others similarly situated :
3323 Apollo Road :
Carrollton :
Ohio 44615 :
:
SAMUEL E. RICHARDS :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 100 :
Chester :
West Virginia 26034 :
:

ROBERT D. ROBINSON :
Individually and on behalf of :
all others similarly situated :
325 Blakely Street :
East Liverpool :
Ohio 43920 :
:
CLEMENS ROCCHIO :
Individually and on behalf of :
all others similarly situated :
Box 552 :
New Cumberland :
West Virginia 26047 :
:
JAMES E. RYAN :
Individually and on behalf of :
all others similarly situated :
359 N. Twentieth Street :
Wierton :
West Virginia 26062 :
:
GEORGE E. SAPOS :
Individually and on behalf of :
all others similarly situated :
136 Ronnie Lane :
Weirton :
West Virginia 26062 :
:
EDWARD G. SEMBAR :
Individually and on behalf of :
all others similarly situated :
1305 Ridge Avenue :
Toronto :
Ohio 43964 :
:

LESLIE W. SHUMAN :
Individually and on behalf of :
all others similarly situated :
170 Forrest Drive :
Wellsburg :
West Virginia 26070 :
:
CLARENCE W. SIMS :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 119B :
Weirton :
West Virginia 26062 :
:
EDWIN N. SINILA :
Individually and on behalf of :
all others similarly situated :
P. O. Box 6288 :
Wheeling :
West Virginia 26003 :
:
DALE SMITH :
Individually and on behalf of :
all others similarly situated :
Box 66 :
Stratton :
Ohio 43961 :
:
DONALD W. SMITH :
Individually and on behalf of :
all others similarly situated :
430 Pine Terrace :
Wellsburg :
West Virginia 26070 :
:

GEORGE W. SMITH :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 245 :
Weirton :
West Virginia 26062 :
:
JACK H. SMITH :
Individually and on behalf of :
all others similarly situated :
121 Leech Street :
Weirton :
West Virginia 26062 :
:
ROBERT L. SMITH :
Individually and on behalf of :
all others similarly situated :
113 Skyview Drive :
Wellsburg :
West Virginia 26070 :
:
VICTOR SOGAN :
Individually and on behalf of :
all others similarly situated :
R.D. #3, Efts Lane :
Steubenville :
Ohio 43952 :
:
ROBERT L. STARKEY :
Individually and on behalf of :
all others similarly situated :
109 Dubey Lane :
Weirton :
West Virginia 26062 :
:

ROSE MARIE STARKEY :
Individually and on behalf of :
all others similarly situated :
109 Dubey Lane :
Weirton :
West Virginia 26062 :
:
JACK C. STEELE :
Individually and on behalf of :
all others similarly situated :
145 Yale Place :
Steubenville :
Ohio 43952 :
:
DOYLE STEWART :
Individually and on behalf of :
all others similarly situated :
723 Main Street :
Toronto :
Ohio 43964 :
:
ROBERT E. STILL :
Individually and on behalf of :
all others similarly situated :
Box 202, Main Street :
Richmond :
Ohio 43944 :
:
GARY M. STRAIGHT :
Individually and on behalf of :
all others similarly situated :
802 3rd Avenue :
New Cumberland :
West Virginia 26047 :
:

FLOYD D. SWAIN :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 175 :
New Cumberland :
West Virginia 26047 :
:
EUGENE A. SWEITZER :
Individually and on behalf of :
all others similarly situated :
Box 441 :
Follansbee :
West Virginia 26037 :
:
ROBERT K. THOMPSON :
Individually and on behalf of :
all others similarly situated :
164 Linmar Avenue :
Wintersville :
Ohio 43952 :
:
RICHARD TOKER :
Individually and on behalf of :
all others similarly situated :
90970 Jewett-Germano Road :
Jewett :
Ohio 43986 :
:
CHARLES M. TORTIS :
Individually and on behalf of :
all others similarly situated :
113 Miron Avenue :
Weirton :
West Virginia 26062 :
:

HERBERT L. UTZLER :
Individually and on behalf of :
all others similarly situated :
55 S. Byron Drive :
Wintersville :
Ohio 43952 :
:
EDWIN R. WEAVER :
Individually and on behalf of :
all others similarly situated :
Box 163B, Sunset Drive :
Toronto :
Ohio 43964 :
:
THOMAS R. WEDLAKE :
Individually and on behalf of :
all others similarly situated :
138 Garden Drive :
Wintersville :
Ohio 43952 :
:
RAYMOND M. WENZOWSKI :
Individually and on behalf of :
all others similarly situated :
240 Hillcrest :
Weirton :
West Virginia 26062 :
:
ARDEN R. WESTFALL :
Individually and on behalf of :
all others similarly situated :
R.D. #1 :
Mingo Junction :
Ohio 43938 :
:

ARTHUR C. WHARTON :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 256 :
Chester :
West Virginia 26034 :
:
THOMAS J. WIGNER :
Individually and on behalf of :
all others similarly situated :
Rt. #1, Box 313 :
New Cumberland :
West Virginia 26047 :
:
STANLEY D. WILLEY :
Individually and on behalf of :
all others similarly situated :
Box 55, Rt. 3 :
New Cumberland :
West Virgina 26047 :
:
RAY J. WILLIAMS :
Individually and on behalf of :
all others similarly situated :
140 Teramana Drive :
Wintersville :
Ohio 43952 :
:
HAROLD E. WILLIS :
Individually and on behalf of :
all others similarly situated :
P. O. Box 167 :
Wellsburg :
West Virginia 26070 :
:

WILLIAM W. WILLOUGHBY :
Individually and on behalf of :
all others similarly situated :
1202 Wentworth Avenue :
Toronto :
Ohio 43964 :
:
R. W. WILSON :
Individually and on behalf of :
all others similarly situated :
P. O. Box 2012 :
Weirton :
West Virginia 26062 :
:
THOMAS E. WINLAND :
Individually and on behalf of :
all others similarly situated :
521 Wallace Avenue :
Brilliant :
Ohio 43913 :
:
Plaintiffs :
:
v. :
:
NATIONAL INTERGROUP INC. :
formerly and also known as :
NATIONAL STEEL :
CORPORATION :
20 Stanwix Street :
Pittsburgh, :
Pennsylvania 15222 :
:
Defendant :
and :
:

WEIRTON JOINT STUDY COMMITTEE, INC.
Three Springs Drive
Weirton, West Virginia 26062

Defendant

and

INDEPENDENT STEELWORKERS UNION
2971 West Street
Weirton, West Virginia 26062

Defendant

and

INDEPENDENT GUARD UNION
3300 Main Street
Tairiol Insurance Building
Weirton, West Virginia 26062

Defendant

and

WEIRTON STEEL CORPORATION
Three Springs Drive
Weirton, West Virginia 26062

Defendant

[Allegations of the Complaint Omitted]

EXCERPTS FROM THE *DHAYER* COMPLAINT

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

EDWARD DHAYER Individually and on behalf of all others similarly situated R.D. #4, Box 281D Burgettstown Pennsylvania 15201	:	CIVIL ACTION NO. 84-638
FRANCIS BAIER Individually and on behalf of all others similarly situated R.D. #3, Box 300 New Cumberland West Virginia 26047	:	Individual Complaint and Class Action Complaint For Damages
EDWARD BITTNER Individually and on behalf of all others similarly situated R.D. #2, Box 133 Burgettstown Pennsylvania 15201	:	
HARRY V. BROWN, JR. Individually and on behalf of all others similarly situated 702 Skyline Circle Follansbee West Virginia 26037	:	

JAMES H. BROWNING :
Individually and on behalf of :
all others similarly situated :
Rt. #1, Box 114 :
Richmond :
Ohio 43944 :
:

JAMES WILLIAM BULLOCK :
Individually and on behalf of :
all others similarly situated :
146 Woodcrest Road :
Follansbee :
West Virginia 26037 :
:

BERNARD A. DEKU, JR. :
Individually and on behalf of :
all others similarly situated :
828 Euclid Avenue :
Toronto :
Ohio 43964 :
:

ROBERT D. DEKU :
Individually and on behalf of :
all others similarly situated :
828 Euclid Avenue :
Toronto :
Ohio 43964 :
:

DANIEL T. DIAMOND :
Individually and on behalf of :
all others similarly situated :
P. O. Box 383 :
Hopedale :
Ohio 43976 :
:

RALPH ANTHONY DIBACCO :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 144-B :
Weirton :
West Virginia 26062 :
:
JOSEPH M. DUMBOVICH :
Individually and on behalf of :
all others similarly situated :
46 Hudson Street :
Slovan :
Pennsylvania 15078 :
:
WILLIAM R. DUNCAN, JR. :
Individually and on behalf of :
all others similarly situated :
325 Bentley Avenue :
Newell :
West Virginia 26041 :
:
ARTHUR E. FERNANDEZ :
Individually and on behalf of :
all others similarly situated :
2301 Eldersville Road :
Follansbee :
West Virginia 26037 :
:
DOMENIC F. FRIO :
Individually and on behalf of :
all others similarly situated :
169 Highland Hills Drive :
Follansbee :
West Virginia 26037 :
:

DORSEY R. GARRETT :
Individually and on behalf of :
all others similarly situated :
R.D. #1 :
Coraopolis :
Pennsylvania 15108 :
:
WILLIAM F. GARRISON :
Individually and on behalf of :
all others similarly situated :
R.D. #1 :
Mingo Junction :
Ohio 43938 :
:
ROBERT EDWARD GRIFFITH :
Individually and on behalf of :
all others similarly situated :
R.D. #2, Box 271A :
Colliers :
West Virginia 16035 :
:
DAVID F. GRIMM :
Individually and on behalf of :
all others similarly situated :
R.D. #1 :
Richmond :
Ohio 43944 :
:
PATRICK S. GURRERA :
Individually and on behalf of :
all others similarly situated :
P. O. Box 2238 :
Weirton :
West Virginia 26062 :
:

DAVID R. HARBIN :
Individually and on behalf of :
all others similarly situated :
147 Stroud Avenue :
Weirton :
West Virginia 26062 :
:
JAMES W. HAZLETT :
Individually and on behalf of :
all others similarly situated :
R.D. #5, Two Ridge Road :
Wintersville :
Ohio 43952 :
:
ROBERT E. HESS :
Individually and on behalf of :
all others similarly situated :
P. O. Box 31 :
Weirton :
West Virginia 26062 :
:
JERRY G. JONES :
Individually and on behalf of :
all others similarly situated :
1103 Courtland Road :
Weirton :
West Virginia 26062 :
:
ROBERT L. JONES :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 98F :
Burgettstown :
Pennsylvania 15021 :
:

JOSEPH P. KARAS :
Individually and on behalf of :
all others similarly situated :
R.D. #3, Box 99B :
Burgettstown :
Pennsylvania 15021 :
:

LLOYD A. KLAGES :
Individually and on behalf of :
all others similarly situated :
R.D. #2 :
West Alexander :
Pennsylvania 15376 :
:

CHARLES L. LACEY :
Individually and on behalf of :
all others similarly situated :
R.D. #1 :
Steubenville :
Ohio 43952 :
:

BRUCE K. LEMASTER :
Individually and on behalf of :
all others similarly situated :
R.D. #1 :
Colliers :
West Virginia 26035 :
:

ERNEST B. MCCORMICK :
Individually and on behalf of :
all others imilarly situated :
120 Leech Street :
Weirton :
West Virginia 26062 :
:

ALBERT L. MONSEAU :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 751 :
Weirton :
West Virginia 26062 :
:
CHARLES D. MURRAY :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 447 :
Chester :
Pennsylvania 26034 :
:
JOSEPH PETRELLE :
Individually and on behalf of :
all others similarly situated :
101 Alf Street :
Weirton :
West Virginia 26062 :
:
CHARLES PRINCE :
Individually and on behalf of :
all other similarly situated :
48002 Clarkson- :
Frederickstown Rd. :
Negley :
Ohio 44441 :
:
ENNIO RASICCI :
Individually and on behalf of :
all others similarly situated :
131 Heights Street :
Weirton :
West Virginia 26062 :
:

LARRY C. RIGGLE :
Individually and on behalf of :
all others similarly situated :
121 E. Hillcrest Drive :
Wellsburg :
West Virginia 26070 :
:
WILLIAM B. RIGGS :
Individually and on behalf of :
all others similarly situated :
22nd Street Ext. :
Wellsburg :
West Virginia 26070 :
:
KENNETH M. SEIPLE :
Individually and on behalf of :
all others similarly situated :
72 Pacemaker Plaza :
Toronto :
Ohio 43964 :
:
JOHN R. SELMON, JR. :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 21C :
Burgettstown :
Pennsylvania 15021 :
:
CHARLES E. WAGNER :
Individually and on behalf of :
all others similarly situated :
R.D. #1, Box 61S :
Weirton :
West Virginia 26062 :
:

FREDERICK R. WELSHANS :
Individually and on behalf of :
all others similarly situated :
134 K, St. John's Road :
Colliers :
West Virginia 26035 :
:
ARTHUR DALE WHITE :
Individually and on behalf of :
all others similarly situated :
2440 Alexander Manor, W :
Steubenville :
Ohio 43952 :
:
DONALD L. WHITE :
Individually and on behalf of :
all others similarly situated :
111 Third Avenue :
Stratton :
Ohio 43961 :
:
JOHN E. WOJCIK :
Individually and on behalf of :
all others similarly situated :
R.D. #2, Box 95 :
Burgettstown :
Pennsylvania 15021 :
:
Plaintiffs :
:
v. :

NATIONAL INTERGROUP INC. :
formerly and also known as :
NATIONAL STEEL :
CORPORATION :
20 Stanwix Street :
Pittsburgh, :
Pennsylvania 15222 :
:
Defendant :
and :
:
WEIRTON JOINT STUDY :
COMMITTEE, INC. :
Three Springs Drive :
Weirton, West Virginia 26062 :
:
Defendant :
and :
:
WEIRTON STEEL :
CORPORATION :
Three Springs Drive :
Weirton, West Virginia 26062 :
:
Defendant :

[Allegations of the Complaint Omitted]